

IN THE MUNICIPAL COURT OF APPEALS
OF THE CITY OF EL PASO, TEXAS

ANNE S. COBOS

Appellant

vs.

No. 89-MCA-2001

STATE OF TEXAS,

Appellee

OPINION

Appellant appeals her conviction in Municipal Court for passing in a school zone.

Appellant contends that she is not guilty of this offense since the vehicle she allegedly passed had stopped within the school zone to make a left hand turn into a private driveway, and therefore was not "proceeding" in the same direction at the time.

Section 12.28.020(E) of the El Paso City Code prohibits a vehicle from passing any other vehicle proceeding in the same direction between signs designating the school crossing zone.

The issue presented by Appellant requires this Court to construe the city ordinance allegedly violated. Statutes and ordinances should be construed to accomplish the intent of the legislative body which passed them.

Although penal statutes are more strictly construed than civil statutes, they must not be construed so strictly

as to defeat obvious legislative intent. Green v. State, 773 SW2d 816 (Tex. App. - San Antonio, 1989).

Additionally, a statute or ordinance should be interpreted to avoid absurd, foolish results unless there is no alternative. Green v. State, supra, McKinney v. Blankenship, 282 SW2d 691 (1955).

Further, words which are not statutorily defined are to be read in context and construed according to the rules of grammar and common usage. Government Code, Section 311.011(a). In this case, the term proceeding indicates movement, but also clearly indicates direction of travel.

Applying the above principals to the case at hand, the obvious legislative purpose is to insure the safety of pedestrians, generally small children in and around a school. All of us have seen or experienced the situation when an unattentive school child darts out in front of a parked or otherwise legally stopped vehicle without warning with potentially disastrous consequences. Prohibiting passing in a school zone is directed at insuring the safety of such pedestrians in those circumstances. To hold otherwise, would result in an absurd, foolish, and dangerous interpretation of this particular offense, and which would thwart the legislative purpose behind the ordinance, and endanger the lives of school children in the process.

Therefore, this Court holds that it is unlawful to pass another vehicle within a school zone, even if that other vehicle is stopped within the confines of the school zone

regardless of the reason or location.

Having found no reversible error, the judgment of the Trial Court is affirmed.

Signed this 27 day of Oct, 1989.


J U D G E

J U D G M E N T

This case came on to be heard on the Transcript of the Record of the Court below, the same being considered, it is ORDERED, ADJUDGED and DECREED by the Court that the Judgment be in all things affirmed, and that the Appellant pay all costs in this behalf expended, and that this decision be certified below for observance.

Signed this 27 day of Oct, 1989.


J U D G E